

**SHOREVIEW PLANNING COMMISSION
MEETING
December 13, 2012**

CALL TO ORDER

Chair Solomonson called the meeting of the December 13, 2012 Shoreview Planning Commission meeting to order at 7:00 p.m.

ROLL CALL

The following members were present: Chair Solomonson; Commissioners, Ferrington, McCool, Proud, Schumer, and Thompson.

Commissioner Wenner was absent.

APPROVAL OF AGENDA

MOTION: by Commissioner Schumer, seconded by Commissioner Proud to approve the December 13, 2012 agenda as submitted.

VOTE: **Ayes - 6** **Nays - 0**

APPROVAL OF MINUTES

MOTION: by Commissioner Proud, seconded Commissioner Schumer to approve the October 23, 2012 Planning Commission minutes as submitted:

VOTE: **Ayes - 6** **Nays - 0**

REPORT ON COUNCIL ACTION

City Planner Nordine stated that the City Council approved the following applications as recommended by the Planning Commission:

- Amendment to Planned Unit Development - Development Stage, Heather Ridge Townhouse Association for the addition of active recreation space
- Site and Building Plan Review for Tom Houck, 4610 Milton Street for an addition
- Site and Building Plan Review for Lake Johanna Fire Department, Station No. 4 addition

NEW BUSINESS

SITE AND BUILDING PLAN REVIEW

File No: 2472-12-35
Applicant: Venture Pass Partners, LLC
Location: 1041 Red Fox Road

Presentation by City Planner Kathleen Nordine

The application is to construct a 14,000 square foot specialty grocer, Trader Joe's. This is Phase 2 of the approved PUD for this site. The property is platted with three parcels. Phase 1 has been completed with a retail center. Phase 3 will be for a commercial bank building. Easements have been executed for access, parking and maintenance. Some of the private infrastructure has been constructed for the phases. The approved PUD does allow for Code deviations of structure setback from the 50 feet required from I-694 to 48.5 feet. Parking spaces are 15 feet from I-694 rather than the required 20 feet.

Storm water management was constructed as part of the overall PUD. There is 72% lot coverage, which is less than the 80% allowed. The architecture design is similar to the retail center. Three wall signs for the Trader Joe's were approved with the Comprehensive Sign Plan.

Concerns of traffic were expressed, and a feasibility study for road improvements on Red Fox Road is scheduled to be presented to the City Council in December.

Property owners within 350 feet were notified of the project. The Lake Johanna Fire Department did submit comments. Staff finds that the proposal is consistent with the PUD and recommends approval with the conditions listed in the staff report.

Commissioner Ferrington asked for more details on the proposed road improvements for Red Fox Road. Ms. Nordine stated that the work would include lane widening, a right turn lane onto Red Fox Road from Lexington, and medians to manage turning movements on Red Fox Road.

Commissioner Schumer asked if there would be a drive in the back of the building for deliveries rather than trucks driving through the parking lot. Ms. Nordine stated that an added access was discussed to help traffic flow for deliveries.

Chair Solomonson asked if there are conditions for snow storage, hours of delivery and truck parking. Ms. Nordine stated that delivery hours and truck parking limitations are not proposed as this commercial area is not adjacent to residential neighborhoods.

Mr. Randy Rauwerdink, Vice President introduced Dave Carland, President; and Jim Ottenstein, Executive Vice President of Ventures Pass. He stated that great care has been taken to incorporate the design of the retail center for Trader Joe's. The liquor store portion of the store is at the south end of the building with separate access. The delivery door faces the

freeway and not visible. Snow storage would be on green areas at the north and south end of the site. He thanked the Commission for considering the application and commended staff for an accurate report.

Commissioner McCool asked if there will be cart storage in the parking lot. **Mr. Rauwerdink** stated that there are and there is a screened wall in front of the building where they will be stored.

Chair Solomonson opened discussion of the project to the public. There were no comments or questions.

Chair Solomonson requested that copies of the plan for traffic improvements be sent to the Planning Commission.

MOTION: by Commissioner Schumer, seconded by Commissioner Thompson to approve the Site and Building Permit Review application, including the Development Agreements, submitted by Shoreview Ventures for the development of 1041 Red Fox Road with a Trader Joe's specialty grocery market. The submitted development plans are consistent with the approved PUD master plan and the City's development standards.

1. This approval permits the development of this parcel with a 14,000 square foot specialty grocery market.
2. Approval of the final grading, drainage, utility, and erosion control plans by the Public Works Director, prior to the issuance of a building permit for this project.
3. The applicant is required to enter into a Site Development Agreement and Erosion Control Agreement with the City. Said agreements shall be executed prior to the issuance of any permits for this project.
4. The master development agreement for the plat and PUD for this development shall remain in effect and said terms which apply to Lot 1 shall be adhered to.
5. The items identified in the memo from the Assistant City Engineer/Public Works Director must be addressed prior to the issuance of a building permit.
6. The items identified in the memo from the Fire Marshal shall be addressed prior to the issuance of a building permit.
7. The Building Official is authorized to issue a building permit for the project, upon satisfaction of the conditions above.

This approval is based on the following findings of fact:

1. The proposed land use is consistent with the City's Comprehensive Plan.
2. The proposed land use and development plans are consistent with the approved PUD and the Development Code standards.
3. The use is in harmony with the general purposes and intent of the Development Code and Comprehensive Plan.

VOTE: Ayes - 6 Nays - 0

COMPREHENSIVE SIGN PLAN AMENDMENT

File No: 2469-12-32
Applicant: TCF / Color Sign Systems, Inc.
Location: 3836 Lexington Avenue

Presentation by Senior Planner Rob Warwick

The amendment is to the sign plan approved by the Planning Commission at its August meeting and approved by the City Council on September 17, 2012. The approved plan includes three wall signs, a pylon sign with an integrated message center sign, two illuminated window signs that only state, “OPEN” or “CLOSED”, and traffic direction signs. TCF has requested an amendment for a monument sign with an integrated message center rather than a pylon sign. The monument sign would be larger with an area of 59.1 square feet. The message center would have an added 25.2 square feet; 10 square feet was approved on the pylon sign. The height of 13.8 feet for the monument sign is shorter than the approved 20-foot pylon sign. The height is higher than what is allowed for a building of less than 20,000 square feet.

TCF is located at the corner of Lexington and Red Fox Road. Public street access is with a right-turn only. There is full access from the Target service drive. TCF will convey easements along Red Fox Road and Lexington for the sign, which announces the gateway to the Red Fox Road retail area. The sign will be set back 5 feet per City requirements. City Code encourages use of monument signs rather than pylon signs.

The message center was approved at 10 seconds per display. TCF has requested 8 seconds per display.

Staff supports the amendment. Materials are consistent with what was previously approved. It is important for the sign to be visible from Red Fox Road and Lexington. The message center sign is reasonable for this property.

Notice was given to property owners within 350 feet. No comments were received. The amendment complies with the criteria and findings. Staff is recommending that the Planning Commission forward the amendment to the City Council for approval.

Chair Solomonson asked if the sign on Red Fox and Lexington will be a message center sign. Mr. Warwick stated that he does not anticipate a message center sign in that location because it is difficult with multiple users to prioritize use.

Commissioner Proud asked if the brightness of the sign is in conformance with City regulations. Mr. Warwick stated that the applicant is aware of industry standards. The sign brightness is set at the factory and has an automatic dimmer to adjust ambient light conditions. Billboard regulations are 0.3 foot candles above ambient light measured at the center of the street.

Commissioner Proud asked how much brighter the factory settings are than the ambient lighting. Mr. Warwick stated that ambient lighting is difficult to measure, but if there are concerns, he

would suggest a condition to address illumination measured in foot candles at a specified distance, such as from the center of the road as is used in parking lot lighting. He also noted that the example depicts a graphic which is in violation of Code. Only text is to be used. He asked if multiple colors are allowed. Mr. Warwick stated that an amber color is required by Code on message center signs in residential areas. No limitation exists in non-residential areas regarding color. A condition is required that a uniform color and height be used and that no graphics are to be used to make the sign consistent with Code requirements.

Commissioner McCool noted that TCF has indicated the sign will be controlled centrally and asked how Shoreview regulations would be enforced, especially if their messages are uniform and Shoreview has different regulations from other communities. Mr. Warwick explained that the central control is to vary the message, but it will be uniform with Shoreview regulations.

Mr. Dave Shannon, Color Sign Systems, stated that he is representing TCF regarding signage. Commissioner Proud asked about the brightness settings. Mr. Shannon stated that the maximum brightness is set to match City Code at 5,000 nits. It automatically dims according to conditions of ambient light. Once the settings are put in, there are usually few complaints.

Commissioner Proud asked how much brighter the sign will be than ambient light conditions. He requested that a published standard, not the industry standard be provided to the Commission. **Mr. Shannon** stated that he is only familiar with brightness in terms of nits and not in comparison to ambient light. He offered to research an answer for Commissioner Proud. He noted that many cities have no restrictions and 5,000 nits as proposed is the lowest brilliance used.

Commissioner McCool asked why the sign is 13 feet in height rather than the 12-foot City standard. **Mr. Shannon** stated that the sign is 3 feet from grade with a brick base. A standard TCF small sign is the one proposed. The information has to fit around the logo and fit as close as possible to Code. It is not possible to purchase a message center small enough to meet Code. The height of the sign could be reduced by making the base one foot above grade, but that may not be above snow cover. Mr. Shannon added that the sign programming is done by his office in accordance with City Code.

Commissioner McCool asked for information that will be posted on the sign. **Mr. Shannon** explained that the time and temperature that TCF always posts will be on the sign. His company programs the sign every week. There will be public service announcements according to what TCF requests. Each sign has its own schedule and set of messages.

Commissioner Schumer noted that a condition of approval is that no graphics are to be used. **Mr. Shannon** stated that would be a deal breaker. The same is true for uniform lettering. Flexibility is needed to fit the message for readability.

Commissioner Proud noted that graphics are prohibited in the City's sign ordinance. **Mr. Shannon** stated that the pylon sign was approved with a color message center as drawn on the illustration. Mr. Warwick stated that similar conditions were imposed on the prior approval of the pylon sign. Technology is changing so rapidly that some sign companies do not make a one-

color sign anymore. He can buy one, but that is not what TCF would like to have and he would not recommend they spend thousands of dollars for a one-color sign. In his 40 years of business, he has not heard of a lawsuit from an accident based on the design of a sign.

Commissioner Proud asked if it would be possible to postpone this decision another month. He would have difficulty supporting this request that clearly deviates from City Code. **Mr. Shannon** stated that it takes 60 days for the equipment to be shipped in, and the grand opening is in February. He offered to call staff directly regarding brightness, if that is a concern.

Commissioner Ferrington asked if the pylon sign conditions proposed by Staff included uniform color and prohibited graphics. Mr. Warwick answered, yes. The Comprehensive Sign Plan is the mechanism to allow deviations.

Chair Solomonson noted that there are two large digital billboards on I-694, and one of them is visible from this site. Through the Comprehensive Sign Plan, the requested deviations can be granted, which he would favor.

Commissioner Proud stated that the Code is based on aesthetics. He does not see justifying the deviations requested based on the billboards previously approved.

Commissioner McCool stated that the graphics and colors are not a great concern for him. However, he does not want this sign to become the community bulletin board. He would like messages to be limited to business operations. He would like the sign to comply with the 12-foot height, as the location is on an elevated grade.

Commissioner Schumer stated that he does not have a problem with the colors and graphics. Technology has moved quickly. The height is lower and he does not have a problem with 13 feet. He would eliminate condition Nos. 1 and 4.

Commissioner Thompson stated that the sign is very attractive. The colors, graphics and height are not a concern. She asked the City's perspective knowing the purpose of this sign. Mr. Warwick stated the conditions are based on Code. Deviations can be approved with a Comprehensive Sign Plan.

Commissioner Ferrington stated that the applicant knew the conditions for approval and was not addressed at this meeting. She would like to see the height be in compliance with the 12-foot limit.

Commissioner Proud stated that he would not support graphics. The Code states that messages should relate to goods and services on the premises. Even time and temperature are questionable.

Chair Solomonson responded that the pylon sign approved was 20 feet. This is a reduction and he can support the request.

MOTION: by Commissioner Schumer, seconded by Commissioner Thompson to recommend the City Council approve the Comprehensive Sign Plan amendment submitted by TCF Bank for 3836 Lexington Avenue, subject to the following conditions with a change to C1. to read, display text sufficient to be readable by motorists without distraction and elimination of condition No. 4 under C. Approval is based on the five findings of fact.

- A. The signs shall comply with the plans submitted for the Comprehensive Sign Plan application. Any significant change will require review by the Planning Commission and City Council.
- B. The applicant shall obtain a sign permit prior to the installation of any signs on the property.
- C. The message center sign shall:
 - 1. Display text using a uniform color and letter height sufficient to be readable by passing motorists without distraction.
 - 2. Messages shall be limited to allow passing motorists to read the entire copy.
 - 3. Messages shall not include telephone numbers, email addresses or internet urls.
 - 4. No graphics shall be displayed on the message center.
 - 5. Messages shall be displayed for a minimum of 8 seconds, and shall change instantaneously.
 - 6. Messages be presented in a static display, and shall not scroll, flash, blink or fade.
- D. Traffic Directional signs shall not be located in the public street right-of-way without the authorization of the appropriate jurisdictional agency.

This approval is based on the following findings of fact:

- 1. *The plan proposes signs consistent in color, size and materials throughout the site for each type of proposed sign.* Each type of sign (Monument, Wall, Traffic Directional, etc.) uses uniform color and materials, and with colors generally based on the TCF logo.
- 2. *Approving the deviation is necessary to relieve a practical difficulty existing on the property.* The business needs visibility from each elevation facing an access point and that the proposed signs provide that needed visibility. Staff believes that lot access presents a practical difficulty that warrants additional business identification. The corner location at the intersection of Lexington (an arterial) and Red Fox Road (a local street) also contributes to the practical difficulty since Red Fox is the main road for this retail area, but is classified as a local road.

3. *The proposed deviations from the standards of Section 208 result in a more unified sign package and greater aesthetic appeal between signs on the site.* The wall signs proposed give a uniform appearance to each building elevation facing a vehicular access point. Message center signs are not uncommon at bank facilities. Use of the message center is reasonable and consistent with previous City decisions regarding message center signs.
4. *Approving the deviation will not confer a special privilege on the applicant that would normally be denied under the Ordinance.* The configuration of the access to the lot and building is unique for this property with two points of ingress that are right turn only, and only one point of egress.
5. *The resulting sign plan is effective, functional, attractive and compatible with community standards.* The sign plan proposes signs with design and sign areas that generally conform to the provisions of Code.

Discussion:

Commissioner Proud stated that he does not agree that the findings address practical difficulty in the City's standard.

City Attorney Filla stated that Section 203.040, subd. C2(c)ii requires a finding of practical difficulty for deviation from the Sign Code.

Commissioner Proud stated that the applicant indicated a sign with a single color is possible. He would like to see this matter continued in order to have a more thorough and deliberate discussion to resolve difficulties.

Commissioner McCool stated that in relation to practical difficulty, he is convinced that the deviations are reasonable. The market has determined the changes in signs and colors and graphics that are not the creation of the applicant.

Commissioner McCool offered an amendment to the motion: to add No. 6 to condition No. C to read, "sign may display time, weather conditions and images that reflect weather conditions and shall advertise only goods or services offered on the premises. Commissioner Proud seconded this amendment.

VOTE ON FIRST AMENDMENT

Ayes - 5

Nays - 1 (Schumer)

Commissioner McCool offered a second amendment, Condition E. that the sign shall be no taller than 12 feet in height. Commissioner Ferrington seconded.

VOTE ON SECOND AMENDMENT

Ayes - 4

Nays - 2 (Schumer, Thompson)

VOTE ON ORIGINAL MOTION AS AMENDED BY ABOVE TWO AMENDMENTS

VOTE: Ayes - 4 Nays - 2 (Ferrington, Proud)

Chair Solomonson called a break and reconvened the meeting at 8:55 p.m.

VARIANCE

File No: **2468-12-31**
Applicant: **Michael Morse**
Location: **1648 Lois Drive**

Presentation by City Planner Kathleen Nordine

The following variances are requested in order to complete a partially constructed detached garage:

- Exceed the maximum area permitted of 576 square feet to 1,100 square feet
- Exceed combined area permitted of 691 square feet to 1,100 square feet
- Exceed the maximum height permitted of 15 feet to 15.91 feet
- Reduce the required 5-foot west side setback to 2.3 feet.

This application is similar to one presented to the Planning Commission in 2011, which the Planning Commission denied.

In July 2011, the City became aware that this structure was being constructed. A Stop Work Order was issued, as no building permit had been issued. The structure is in noncompliance, and the property owner applied for variances. In August 2011, the Planning Commission reviewed the request for variances and determined that practical difficulty did not exist. The variances were denied. In September 2011, the City Council considered an appeal of the Planning Commission decision by Mr. Morse. The City Council upheld the Planning Commission decision.

In October 2011, Mr. Morse was notified that the property needed to be brought into compliance by November 1, 2011. In December 2011, the City Council held an abatement hearing and determined that the structure is a public nuisance and ordered its abatement. At present, the structure remains on the property, and the City has filed a complaint with the District Court seeking an order for removal of the structure. A decision has not yet been issued.

The City's Development Code allows a property owner to file the same or similar application six months after denial. The applicant has indicated that an addition to the home is planned that

would increase the foundation of the living area to a total of 1,375 square feet. However, since the addition has not been constructed, that total cannot be used in the formula for accessory structure, which is 75% of foundation area of the principal structure. The property is zoned R1.

The applicant states that the proposed garage is similar to the sizes of other garages in the neighborhood. The existing home is small, and the square footage allowed is not adequate. Code restrictions depress the property value. A drainage easement on the south side restricts location of the structure. The side yard encroachment is necessary to achieve a reasonable sized garage. The new garage is in the same location as the previous one. Also, the applicant has stated that he was not aware that a building permit was needed.

Staff has reviewed the application and does not believe that practical difficulty exists. As the new garage is 140% of the foundation of the house, it becomes the principal structure on the property. The proposed 1,100 square feet is not reasonable due to the size of the lot, the house and proximity to the side property line. Although the house is small, it is similar to other homes in the neighborhood with smaller garages. There are some garages in the neighborhood that are larger, but most are in compliance. The drainage easement is not unique and does not create the need for encroachment into the side setback. The 2.3 feet does not allow enough room for mitigation of the impact of the size of the structure.

Public comment does not support the structure, and residents have asked why it still remains. Staff is recommending denial, as the circumstances have not changed from the first application. The property can be used in a reasonable manner and there is space to build a garage that would be in compliance. The size of the proposed structure will negatively impact the neighborhood.

City Attorney Filla stated that the application can be considered six months after denial. Litigation has commenced, and a trial will be scheduled for spring of 2013.

Commissioner McCool asked if a building permit was applied for to build the house addition. Ms. Nordine stated that an application for a house addition and completion of the garage was submitted. The application was denied because the accessory structure is not in compliance.

Chair Solomonson asked staff to comment on previous Code requirements, when other larger garages were built in the neighborhood and to compare this application with other smaller homes in the area with larger garages. Ms. Nordine stated that the Development Code was amended in 2006 when accessory structure regulations became stricter. A chart of properties in the area shows the largest garage is 937 square feet and just over the size of the home at 102%.

Commissioner Schumer asked if only a building permit would be needed if just the house addition were being considered. Ms. Nordine answered that only a building permit is needed. Commissioner Schumer asked if the garage was approved, what amount of time would be allowed for the house addition. Ms. Nordine stated that the house addition is a separate issue. Even if the addition were completed, variances would be needed for the garage setback and size which would exceed 75% of the house foundation area.

Mr. Fritz Knaak, Attorney for the Applicant, stated that it will cost many thousands of dollars to remove a structure for which he was unaware a building permit was needed. Practical difficulty does exist in this case. He distributed a letter to the Planning Commission summarizing his comments at this meeting. The current condition of the garage is ugly and covered with plastic to preserve it until the issues can be resolved. This small home was purchased by the applicant as a single person. Now he has become a family of four. The addition he plans is to keep his family in this home. Under the City's Code, the owner of a smaller house is not entitled to enlarge a garage to accommodate the number of people or vehicles owned. The initial design was taken from other garages he observed in the neighborhood. He was unaware of needing a building permit. What is being asked is not far-fetched. There are practical difficulties. The character of the neighborhood is eclectic in terms of accessory structures. The larger garage enhances the value of the home. He showed photographs of larger garages in the neighborhood. The footprint of the garage is aligned with the driveway and on the same location of the previous garage with the same setback. The drainage easement is a deep ditch, which is a significant hardship and implicates where anything can be located on the property. What is proposed is consistent with the neighborhood. The original roof line can be engineered down to 15 feet. The major issue is the size, but it is not bigger than others in the neighborhood, and the ratio of house size to garage size is not unique. What is unique is the neighborhood with other small homes and larger garages.

Chair Solomonson opened the discussion to public comment. There were no comments or questions.

Commissioner McCool asked why the drainage ditch precludes a side setback of a compliant 5 feet. **Mr. Knaak** stated that the entire configuration of the driveway and house is based on the location of the ditch and impacts the setback. Commissioner McCool stated that a garage of 22' x 50' is remarkably large. He asked why the largest allowed garage of 750 square feet would not be adequate. **Mr. Knaak** explained that the size is driven by the need to store vehicles.

Commissioner McCool asked if partial demolition has been explored. **Mr. Knaak** explained that the problem is that there is a concrete pad with footings that would have to be broken up.

Commissioner Proud stated that he is not convinced by the applicant's argument. Necessary proof has not been presented.

Commissioner Ferrington agreed. She visited the site. While the drainage may be problematic for the home, she does not see how it impacts the 2.3 foot setback. Also, it is impossible to verify that the garage is reconstructed on the same footprint that would allow grandfathering.

Commissioner Schumer stated that nothing has changed. As a homeowner, the applicant must go through the same processes as everyone else.

Commissioner McCool stated that he does not support the variances. He does not believe it is legally justifiable to oversize a garage on the basis of number of vehicles. It is too large for the house, even if there is an addition to the house. The proportion is too large. He is not convinced

there are unique circumstances. He stated that the comparisons shown by the applicant are not clear as to the proximity of the subject property.

Chair Solomonson stated that one of the biggest concerns is the size. He believes a size of 750 square feet would be 15 feet shorter, a size that is more in character. He agreed that without the completed house addition, that cannot be considered. The Commission can only consider what is before it.

Commissioner Thompson stated that the garage is too long and does not comply with City standards.

MOTION: by Commissioner McCool, seconded by Commissioner Schumer to deny the following variances requested by Mike Morse, 1648 Lois Drive, to retain and finish the partially-constructed detached accessory structure on his property:

1. To exceed the maximum area permitted (75% of the dwelling unit foundation area or 750 square feet whichever is more restrictive). The area of the detached accessory structure is 1,100 square feet exceeding the maximum of 576 square feet permitted.
2. To exceed the combined areas of all accessory structures on the property (90% of the dwelling unit foundation area or 1,200 square feet whichever is more restrictive). The combined area of all accessory structures is 1,100 square feet exceeding the 691 square feet permitted.
3. To exceed the height of the house (15 feet) - a height of 15'11" feet is proposed.
4. To reduce the required 5-foot setback from a side property line to 2.3 feet.

Said denial is based on the following findings of fact:

1. The request does not comply with the spirit and intent of the City's Development Code and Comprehensive Plan due to the proposed size of the detached accessory structure. The accessory structure would become a dominant structure and use on the property and not be subordinate to the principal residential dwelling unit. With the proposed 2.3-foot setback from the side property line, open space between properties is not maintained and space is restricted to maintain the structure from the applicant's property.
2. Reasonable Manner. The applicant can use his property in a reasonable manner as permitted by the Development Code. In accordance with the City's regulations a two-car 576 square foot detached accessory structure and a storage shed could be constructed on the property at the required 5-foot setback. To this finding, Commissioner McCool added the following: The applicant's proposal is not a reasonable use because both the size and height of the structure are too large in proportion to the house and surrounding structures. Also, it is possible for the structure to be placed further away from the lot line.

- VOTE: Ayes - 6 Nays - 0

File No: 2470-12-33
Applicant: Dennis & Mary Louise Jarnot
Location: 1000 Oakridge

The application is for a Conditional Use Permit (CUP) to expand a second detached accessory structure on the property. A CUP is required for accessory structures to exceed the maximum area on parcels of 1 acre or more in size. The property is zoned R1. It is developed with a two-story single family home with a foundation area of 1,983 square feet. There is an attached garage of 753 square feet, a detached garage of 720 square feet and a storage shed of 168 square feet. The new structure would be 784 square feet and includes the existing storage shed which would be relocated to comply with the side yard setback. The combined floor area if all accessory structures is 2,257 square feet and the floor area of detached accessory structures combined is 1,537. The height is 17 feet; the maximum height allowed is 18 feet. The exterior is stucco with roof to match the other structures on the property.

The property is a low density detached residential use. The proposal is compatible with residential use and intended for the storage of vehicles and personal possessions. The location, height, design and setback requirements are in compliance with the City's Development Code. The closest residents are on Hanson. The proposed structure is 180 feet from the front property

line. Two public comments were received in support of the application. Staff is recommending approval.

Commissioner Ferrington stated that her only concern is that she wants to be sure there is little visibility of the structure, but the nearest dwelling is 180 feet away. Ms. Nordine stated that there are trees and a hedge.

Commission Solomonson asked the reason for the location near the other accessory structures.

Mr. Dennis Jarnot, Applicant, stated that the new structure will be behind an existing one and not visible. The distance to the nearest dwelling is 180 to 190 feet in front, the south is 320 feet and to the west property line is 210 feet. There is a hedge around the whole property. There are so many trees that one would have to stop in front of the property in order to see the new structure. He has 17 neighbors who abut his property. He has talked to 95% of them, and all are supportive. He is also planning to plant additional pines for winter screening in the 10-foot setback for more screening on that side. The structures are not used from November to April. There is no in and out everyday use because there is no driveway to the structures. It is used for storing collector cars, snowmobiles and a boat.

City Attorney Filla stated that he has reviewed the notices of publication and the required notices have been provided.

Chair Solomonson opened the public hearing.

Mr. Todd Sharkey, 4965 Hanson Road, asked if he could distribute some written information to the Commission. He stated that he called in the complaint. The complaint starts on Exhibit B1, where he says that his house is set back 90 feet. He has not taken out a permit. Mr. Jarnot does not have permission. His home is illegal, and Judge Wheeler, Ramsey County District Court, asked the City's Attorney who admitted the house is illegal. Judge Wheeler stated that the road could be barricaded. He will give the neighbors until the end of March to petition the City for a public street or he will barricade. On Exhibit M2 the roadway easement crosses his property. There is no certificate of survey to show how his house got there. There is no variance. He does not follow the rules. If the City does not take action to establish non-conforming rights, the Jarnot house at 1000 Oakridge diminishes property value. Exhibit X1, states that no further accessory structures will be permitted on this property, and he signed it. His house is not within Code. Mr. Jarnot knows he cannot have added accessory structures, but they are there. He has no reason to set his house back 52 feet further than City Code allows. In 2005, when he was denied a minor subdivision it was because it did not face a public street. However, Oakridge Avenue is a public street. Mr. Jarnot and two other property owners do not have public access to their own properties. It is not fair.

MOTION: by Commissioner Proud, seconded by Commissioner Schumer to close the public hearing.

VOTE: Ayes - 6 Nays - 0

Commissioner Proud stated that material has been presented that needs to be carefully reviewed by the Commission, staff and legal counsel. He would suggest holding this matter over to the next Planning Commission meeting.

City Attorney Filla stated that as the application was completed November 19, there is time to hold the matter over if that is the wish of the Commission. Mr. Sharkey's information mostly has to do with Mr. Jarnot's house. This application is in regard to the accessory structure proposed.

It was the consensus of the Commission to move forward on this application. The information presented by Mr. Sharkey has more to do with access and Mr. Jarnot's house.

MOTION: by Commissioner Schumer, seconded by Commissioner Ferrington to recommend the City Council approve the Conditional Use Permit submitted by Dennis Jarnot, 1000 Oakridge Avenue, for a second detached accessory structure on the property, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted with the applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The existing vegetation, along that portion of the side property line adjacent to the proposed structure must remain and be maintained.
3. A minimum setback of 10 feet is required from the adjoining side property line.
4. The exterior design and height of the structure shall be residential in scale and be consistent with the existing single family home. The height of the structure as measured from the lowest ground grade to the peak shall not exceed 18'. The exterior sidewalls shall not exceed 10' in height and any interior storage above the main floor shall not exceed 6' in height.
5. The structure shall be used for storage purposes of household and lawn supplies, equipment, [and Commissioner Schumer added] recreational equipment, or automobiles. The structure cannot be used as a residence.
6. The structure shall not be used in any way for commercial purposes.

Said approval is based on the following findings of fact:

1. The proposed accessory structure will maintain the residential use and character of the property and is, therefore, in harmony with the general purposes and intent of the Development Ordinance.

2. The primary use of the property will remain residential and is in harmony with the policies of the Comprehensive Plan.
3. The conditional use permit standards as detailed in the Development Ordinance for residential accessory are met.
4. The structure and/or land use conform to the Land Use Chapter of the Comprehensive Plan and are compatible with the existing neighborhood.

Discussion:

Commissioner McCool offered an amendment to require additional screening with plantings in the 10-foot setback. Commissioners Schumer and Ferrington accepted the amendment.

VOTE ON MOTION WITH AMENDMENT

Ayes - 6

Nays - 0

MISCELLANEOUS

City Council Meeting Assignments

Commissioner McCool will attend the December 17th City Council meeting.

Chair Solomonson stated that he will attend the January 7th City Council meeting for Commissioner Schumer.

Commissioner McCool will attend the January 22nd City Council meeting.

2013 Planning Commission Chair & Vice Chair

Commissioner Schumer nominated Chair Solomonson to serve as Chair for 2013.

Commissioner Ferrington nominated Commissioner Schumer for Vice Chair.

It was the consensus of the Planning Commission to forward these two nominations to the City Council for approval.

ADJOURNMENT

MOTION: by Commissioner McCool, seconded by Commissioner Schumer, to adjourn the regular Planning Commission Meeting of December 13, 2012, at 10:55 p.m.

VOTE: Ayes - 6 Nays - 0